
By: **Senators Hughes and Gladden**
Introduced and read first time: January 31, 2003
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Damages - State Compensation for Erroneous Conviction and**
3 **Imprisonment - Evidentiary Standard and Eligibility**

4 FOR the purpose of requiring the Board of Public Works to grant certain economic
5 damages and noneconomic damages to certain individuals who are erroneously
6 convicted, sentenced, and confined under a State law for crimes the individuals
7 did not commit; requiring that the eligibility of certain individuals for a certain
8 grant be based on certain pardons by the Governor under certain circumstances
9 or based on a court's determination by clear and convincing evidence that the
10 convictions of the individuals are in error and that the individuals are innocent
11 of the crime; defining certain terms; prohibiting the Board of Public Works from
12 paying any part of a certain grant to any individuals other than certain
13 individuals eligible to receive the grant under certain circumstances; and
14 generally relating to damages for certain individuals erroneously convicted,
15 sentenced, and confined under State law.

16 BY repealing and reenacting, with amendments,
17 Article - State Finance and Procurement
18 Section 10-501
19 Annotated Code of Maryland
20 (2001 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - State Finance and Procurement**

24 10-501.

25 (a) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
26 INDICATED.

27 (2) (I) "ECONOMIC DAMAGES" MEANS LOSS OF EARNINGS AND
28 MEDICAL EXPENSES.

1 (II) "ECONOMIC DAMAGES" DOES NOT INCLUDE PUNITIVE
2 DAMAGES.

3 (3) (I) "NONECONOMIC DAMAGES" MEANS PAIN, SUFFERING,
4 INCONVENIENCE, PHYSICAL IMPAIRMENT, DISFIGUREMENT, LOSS OF CONSORTIUM,
5 MENTAL ANGUISH, EMOTIONAL PAIN AND SUFFERING, LOSS OF SOCIETY,
6 COMPANIONSHIP, COMFORT, PROTECTION, CARE, MARITAL CARE, PARENTAL CARE,
7 FILIAL CARE, ATTENTION, ADVICE, COUNSEL, TRAINING, GUIDANCE, EDUCATION, OR
8 OTHER NONPECUNIARY INJURY.

9 (II) "NONECONOMIC DAMAGES" DOES NOT INCLUDE PUNITIVE
10 DAMAGES.

11 (B) (1) Subject to subsection [(b)] (C) of this section, the Board of Public
12 Works [may] SHALL grant to an individual erroneously convicted, sentenced, and
13 confined under State law for a crime the individual did not commit an amount
14 commensurate with the [actual] ECONOMIC DAMAGES AND NONECONOMIC damages
15 sustained by the individual due to the confinement.

16 (2) In making a grant under paragraph (1) of this subsection, the Board
17 of Public Works shall use money in the General Emergency Fund or money that the
18 Governor provides in the annual budget.

19 [(b)] (C) An individual is eligible for a grant under subsection [(a)] (B) of this
20 section only if:

21 (1) the individual has received from the Governor a full pardon stating
22 that the individual's conviction has been shown [conclusively] BY CLEAR AND
23 CONVINCING EVIDENCE to be in error; OR

24 (2) A COURT HAS DETERMINED BY CLEAR AND CONVINCING EVIDENCE
25 THAT:

26 (I) THE INDIVIDUAL'S CONVICTION IS IN ERROR; AND

27 (II) THE INDIVIDUAL IS INNOCENT OF THE CRIME.

28 [(c)] (D) The Board of Public Works may pay the grant determined under
29 subsection [(a)] (B) of this section in a lump sum or in installments.

30 [(d)] (E) (1) The Board of Public Works may not pay any part of a grant
31 made under this section to any individual other than the [pardoned] individual
32 DETERMINED TO BE ELIGIBLE UNDER SUBSECTION (C) OF THIS SECTION.

33 (2) (i) An individual may not pay any part of a grant received under
34 this section to another person for services rendered in connection with the collection
35 of the grant.

36 (ii) An obligation incurred in violation of this paragraph is void.

1 (iii) A payment made in violation of this paragraph shall be forfeited
2 to the State.

3 [(e)] (F) This section does not prohibit an individual from contracting for
4 services to:

- 5 (1) determine the individual's innocence;
- 6 (2) obtain a pardon; or
- 7 (3) obtain the individual's release from confinement.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2003.